REMARKS

Claims 1-10 are pending in this application. Claims 1-5 were rejected. Claims 6-10 were withdrawn from consideration. Claim 1 is currently amended to clarify that it is the access point that causes the attenuation. Reconsideration is requested.

Claims 1-5 were rejected under 103(a) as being obvious over English in view of Lappetelainen in further view of Tanaka. The Office relies solely on Tanaka for teaching the limitation of ascertaining based on level of attenuation of signal strength where the alternate access point transmits at less than full power.[1] The Office specifically cites Figures 1 and 2, and column 3, line 60 through column 4, line 10 as teaching the limitation. Applicant respectfully traverses. Tanaka states that the base station 2b controls the base transmission power in accordance with the "first measured information." Perhaps because of translation informalities, Tanaka fails to actually describe the "first measured information," but logically it must be the "up link signal information" described at column 3, lines 53-56, i.e., the mobile station signal quality as measured by the base station. However, Tanaka fails to suggest that the mobile station consider, in calculating whether to become associated with the base station, the possibility that the base station might increase transmit power. This is a shortcoming because failing to account for potential power increase in that calculation will result in suitable powered-down base stations being dismissed as candidates because their signal will be seen as too weak. Rather than communicating the ability to increase power to the mobile station, Tanaka would have the base station increase power, unannounced, after the association had been completed. Arguably, the Tanaka technique makes sense if one is solely concerned with supporting associated mobile

[1] OA at page 5, first paragraph

stations in motion, and handoff of those mobile stations. However, the presently claimed invention is directed to a different goal, i.e., enhancing mobile station operation in an environment where base stations reduce power in order to reduce RF footprint. If the base station does not communicate the ability to increase power in that environment, it could power-down and basically disappear from the network once it had no associations to support. Further, the base station would be unlikely to power back up because, once powered down, it would be less likely that any mobile station would become associated with that base station because of its weak signal. As a result, network performance would suffer. In sum, the combination of Tanaka, English and Lappetelainen fails to teach the claimed limitation of "logic for ascertaining whether the wireless device should attempt to associate with an alternative access point, the ascertaining based at least in-part on a level of attenuation by the alternative access point of signal strength of transmissions from the alternative access point where the alternative access point transmits at less than full power." Withdrawal of the rejection of claim 1 is therefore requested. Claims 2-5 are dependent claims which further distinguish the invention, and which are allowable for the same reasons as claim 1.

Applicant thanks the Examiner for expending the time and effort required to carefully consider the claims, as evidenced by the response to Applicant's arguments. Applicant agrees with the Examiner that the specific limitation of a "TP Backoff" is not recited in the claims. The mention of that in the previously submitted remarks was simply intended to provide helpful context for understanding the claims which, because written in a way intended to provide the broadest allowable coverage, tend to be more difficult to understand than the detailed description in the specification. The TP Backoff signal is just one example of how the access point might communicate its ability to increase power to the mobile station. The access point might

alternatively signal its actual transmit power level and its maximum transmit power level, or some other information. The point is that the mobile station learns that the access point could increase power in order to accommodate the mobile station, and then the mobile station uses that information in the selection process. Applicant respectfully disagrees with the assertion that the previously submitted remarks improperly attempt to show non-obviousness by attacking references individually. The 10/18/2006 Office Action states at page 4 that English in view of Lappetelainen does not disclose the limitation of ascertaining based on a level of attenuation of signal strength where the alternate access point transmits at less than full power. Since the Office relies only on Wheatley for teaching that limitation, and concedes that the other references fail to teach the limitation, it would be redundant to point out why English in view of Lappetelainen fail to teach the limitation. Finally, since the Office has properly included cellular network technology in the scope of the search, Applicant would like to take this opportunity to state that the scope of the claims is fully intended to cover such networks.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 978-264-4001 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date

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